

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

MT. HAWLEY INSURANCE COMPANY,
a foreign corporation,

Plaintiff,

v.

WATERSIDE, LLC, an Oregon limited
liability company, and **VANCE JEANNET**,
an individual,

Defendants.

Case No. 3:21-cv-00502-JR

ORDER ADOPTING F&R

Elissa M. Boyd, Sean W. Carney, David P. Rossmiller, Chartwell Law, 1050 SW 6th Avenue, Suite 1100, Portland, OR 97204. Attorneys for Plaintiff.

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IMMERGUT, District Judge.

On August 15, 2022, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (“F&R”), ECF 63, recommending that Plaintiff Mt. Hawley Insurance

Company's ("Plaintiff") Motion for Summary Judgment Against Waterside LLC on the Duty to Defend, ECF 48, be denied, and that Defendant Waterside, LLC's ("Waterside") Cross Motion for Summary Judgment on the Duty to Defend, ECF 55, be granted. Plaintiff timely filed objections, ECF 66, to which Waterside and Defendant Vance Jeannet ("Jeannet") timely responded, ECF 71; ECF 72. On January 12, 2023, Plaintiff submitted a letter to this Court offering supplemental authority related to the issues in this case. ECF 73. This Court ordered further briefing on the issues raised by Plaintiff and ordered the case remanded back to Judge Russo for further consideration. *Id.*

On February 21, 2023, Judge Russo issued a Supplemental F&R, ECF 78, which affirmed Judge Russo's prior recommendation that Plaintiff's Motion for Summary Judgment be denied, and Waterside's Cross Motion be granted. Plaintiff again timely filed objections, ECF 80, to which Waterside and Jeannet filed renewed responses, ECF 81; ECF 82. This Court has reviewed de novo the portions of the F&R, ECF 63, and Supplemental F&R, ECF 78, to which Plaintiff objected. For the following reasons, the Court ADOPTS Judge Russo's F&R and Supplemental F&R.

STANDARDS

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If a party objects to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act "does not

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preclude further review by the district judge, sua sponte” whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

CONCLUSION

This Court has carefully reviewed de novo the portions of Judge Russo’s Supplemental F&R to which Plaintiff objected, ECF 80, as well as Plaintiff’s initial objections, ECF 66. Judge Russo’s F&R, ECF 63, as well as the Supplemental F&R, ECF 78, are adopted in full. This Court DENIES Plaintiff’s Motion for Summary Judgment Against Waterside LLC on the Duty to Defend, ECF 48, and GRANTS Defendant’s Cross Motion for Summary Judgment on the Duty to Defend, ECF 55.

IT IS SO ORDERED.

DATED this 12th day of April, 2023.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge